

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

CYWEE GROUP LTD.,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD. AND
SAMSUNG ELECTRONICS AMERICA, INC.

Defendants.

CASE NO. 2:17-cv-00140-WCB-RSP

JURY TRIAL DEMANDED

JOINT STATUS REPORT

Pursuant to the Court's February 14, 2019 Order (Dkt. No. 331), Plaintiff CyWee Group Ltd. and Defendants Samsung Electronics Co., Ltd and Samsung Electronics America, Inc. respectfully submit the following Joint Status Report.

As shown in the table below, on January 9, 2020, the PTAB held that the claims subject to two IPRs filed by Google (the "Google IPRs") are invalid:

Asserted Patent	IPR Case No.	Claims Held Invalid
8,441,438 ("438 patent")	IPR2018-01258	1, 3–5
8,552,978 ("978 patent")	IPR2018-01257	10, 12

In the instant case, CyWee asserts infringement of claims 1, 3–5, 14–17, and 19 of the '438 patent, and claims 10 and 12 of the '978 patent. Asserted claims 14–17 and 19 of the '438 patent are not subject to the Google IPRs.

Those claims are however subject to an IPR filed by ZTE (the "ZTE IPR"), as shown in the table below:

Asserted Patent	IPR Case No.	Instituted Claims
8,441,438	IPR2019-00143	1, 4, 5, 14–17, 19

Because CyWee intends to appeal the PTAB’s final written decision in the Google IPRs, and because the ZTE IPR will affect claims asserted in this case, neither party requests lifting the stay at this time. Consistent with the current order staying the case (Dkt. No. 331) the parties intend to advise the Court within five days after the PTAB issues its final written decision in the ZTE IPR. The PTAB is expected to issue a final written decision in the ZTE IPR on or before May 17, 2020.

CyWee Statement Regarding Amended Claims in the ZTE IPR:

CyWee’s proposed amended claims in the ZTE IPR are subject to the PTAB’s pilot program concerning motions to amend, as provided for in 84 Fed. Reg. 9,497 (Mar. 15, 2019). On December 5, 2019 the PTAB issued Preliminary Guidance on Patent Owner’s Motion to Amend (the “Guidance”). In the Guidance, the PTAB preliminarily held that proposed amended claims 20 and 22 (corresponding to original claims 1 and 14) are valid. More specifically, although the PTAB preliminarily held that the provisional application does not provide written description support for certain limitations added to claims 20 and 22, it also preliminarily held that the patent application itself provides support for those limitations. The PTAB also preliminarily held that claims 20 and 22 are not invalid due to obviousness or indefiniteness. If versions of these claims are ultimately held valid, amended versions of claims asserted in the instant case, namely 1 and 14, and unamended claims depending from those claims, namely 4 and 16–17, will be litigated in the instant case.

Samsung’s Response Regarding Proposed Amended Claims in the ZTE IPR

Samsung disagrees with CyWee’s characterization of the status of its proposed amended claims in the ZTE IPR. The PTAB’s Preliminary Guidance explicitly found that there appears to

be no adequate written description support for proposed amended claims 20 and 22. IPR2019-00143, Paper 35 at 4 (stating that CyWee “does not appear to have sufficiently identified adequate written description support for substitute claims 20–24”). Because CyWee has sought the benefit of the provisional application filing date in the ZTE IPR, the provisional application must provide adequate written description support for the new claim limitations added through the proposed amendments. The PTAB preliminarily found, however, that the provisional application fails to provide such disclosure. *Id.* at 4–6. For at least that reason, Samsung disagrees with CyWee’s assertion that any proposed amended claims will be litigated in this case.

Date: January 14, 2020

Respectfully submitted,

/s/ Ari Rafilson

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CERTIFICATE OF SERVICE

The undersigned certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on January 14, 2020.

/s/ Ari Rafilson
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